

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

STATE OF NEW YORK, *et al.*

Plaintiffs,

v.

NATIONAL SCIENCE FOUNDATION, *et al.*,

Defendants.

No. 1:25-cv-04452

**DECLARATION OF BRIAN STONE**

Pursuant to 28 U.S.C. § 1746, I, Brian Stone, declare as follows:

1. I am employed as the Chief of Staff, Office of the Director (OD), National Science Foundation (NSF). I am currently the Senior Official Performing the Duties of the NSF Director.
2. I have held the Chief of Staff position since April 2016, and I have been performing the Duties of the NSF Director since April 25, 2025, when Dr. Sethuraman Panchanathan resigned his position as NSF Director.
3. In my current position, I am responsible for performing the duties of the NSF Director, which includes serving as the head of NSF, coordinating with the Executive Office of the President as well as other federal agencies, and overseeing operations of the NSF. My function as Chief of Staff is to serve as the primary advisor and confidante to the NSF Director and to provide policy and strategic advice as needed.

4. This declaration incorporates information known to me and collected through reasonable diligence from those involved in (A) issuance of the April 18, 2025, “Statement of Priorities,” and (B) the decision to adopt a standard indirect cost rate for NSF grants and cooperative agreements awarded to institutions of higher education.

#### **NSF Administration of Grants**

5. Established by the NSF Act of 1950, NSF is an independent federal agency that promotes the progress of science; advances the national health, prosperity, and welfare; and secures the national defense. To support these missions, NSF awards grants to various entities, including Institutions of Higher Education (IHEs), to support research activities. In Fiscal Year (FY) 2024, NSF evaluated approximately 40,000 proposals through a competitive merit review process and funded approximately 11,000 competitive new and renewal awards. Of these awards, approximately 9,400 were awarded to IHEs.

6. When considering whether to award a grant, NSF uses two statutory criteria to ensure that every award has the potential to advance new knowledge (Intellectual Merit) with maximum impact on the Nation and its people (Broader Impacts). NSF uses these criteria with an eye towards ensuring taxpayer funds advance the United States’ research objectives as efficiently as possible and with responsible stewardship of federal funds.

7. NSF also complies with the Office of Management and Budget’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. § 200.

8. The grant review process typically takes 6 months for technical review plus 1 month for final administrative review prior to award. As part of the review process, NSF negotiates proposed budgets. NSF does not renegotiate cost sharing or other organizational commitments in compliance with 2 C.F.R. § 200.306(a) during this process.

9. These grants reimburse two categories of costs on an as-needed basis based on costs a grantee incurs or expects to incur during a given period – direct or indirect costs, as discussed further below.

10. First, the grants permit grantees to draw down federal funds for “direct costs” which are costs “identified specifically with” a particular research project or activity—i.e., the specific research that NSF intends to support with the grant. 2 C.F.R. § 200.413(a). For example, in a grant for artificial intelligence research, direct costs would include the “the proportion of employee compensation and fringe benefits expended in relation to that specific award” and “supplies needed to achieve the award's objectives.” 2 C.F.R. § 200.413(b).

11. NSF grants also provide funding for a grantee’s “indirect costs.” For IHEs, these costs are “classified within two broad categories: ‘Facilities’ and ‘Administration.’” 2 C.F.R. § 200.414(a). “Facilities” costs include “depreciation on buildings, equipment and capital improvements, interest on debt associated with certain buildings, equipment and capital improvements, and operations and maintenance expenses” not associated with particular research. *Id.* “Administration” costs, in turn, include “general administration and general expenses such as the director’s office, accounting, personnel and all other types of expenditures not listed” elsewhere. *Id.*

12. Generally, NSF has paid indirect costs based on an “indirect cost rate” periodically negotiated with each grantee institution pursuant to a negotiated indirect-cost rate agreement (NICRA). 2 C.F.R. § 200.414(c)(1); *see* 2 C.F.R. pt. 200, subpart E & app. III. In general, the higher the indirect-cost rate, the more NSF will reimburse. For example, at Harvard University, which has an indirect-cost rate of 69% for on-campus research, NSF may pay up to \$169,000 for a \$100,000 grant: \$100,000 in direct costs plus \$69,000 in indirect costs. For institutions that

have not negotiated rates, a default “de minimis rate of 15%” applies. *See* 2 C.F.R. § 200.414(f).

13. In 2024, the average indirect cost rate applied to modified total direct cost (MTDC) for an IHE awarded an NSF grant was 50.9%. Further, in 2024, the highest indirect cost rate applied to MTDC awarded was 93.2% and the lowest was 6.2%.

14. NSF is responsible to Congress and taxpayers for carrying out its mission in a manner that not only facilitates research but does so cost-effectively. *See supra* ¶ 6. Indirect costs, by definition, constitute Federal expenditures that do not directly support researchers.

15. NSF awards are subject to terms and conditions specified in the award notice. Prior to October 1, 2024, grants awarded to institutions of higher education were subject to the Research Terms and Conditions (“RTCs”) and NSF Agency Specific Requirements. NSF ended its use of the RTCs for new awards on October 1, 2024. Since that date, NSF Grant General Conditions (GC-1) apply to all new NSF grants to institutions of higher education and pre-existing grants subject to funding amendments. Both RTCs and GC-1 provide NSF the authority to terminate awards that no longer effectuate program goals or are not in alignment with agency priorities.

16. NSF’s inclusion of the right to terminate awards that no longer effectuate program goals or agency priorities in the RTCs and GC-1 is in accordance with 2 C.F.R. § 200.340(a)(4).

#### **April 18, 2025, Statement of Priorities**

17. On April 18, 2025, NSF issued a “Statement of U.S. National Science Foundation Priorities” (hereinafter “Statement”). The Statement elucidated that “NSF priorities are grounded in the mission of the agency and modulated by statutory directives and administration priorities.” The Statement further noted that “NSF’s broadening participation activities, including activities undertaken in fulfillment of the Broader Impacts criterion, and research on broadening participation, must aim to create opportunities for all Americans everywhere.” And

it explained that such “efforts should not preference some groups at the expense of others, or directly/indirectly exclude individuals or groups. Research projects with more narrow impact limited to subgroups of people based on protected class or characteristics do not effectuate NSF priorities.”

18. The Statement, along with Frequently Asked Questions (FAQs), was published on NSF’s public-facing website (NSF.gov). NSF also issued a Foundation-wide Staff Memorandum (OD 25-27) to communicate the Statement to the entire workforce.

19. NSF formed an internal panel to review grant awards and determine if they aligned with NSF priorities. Based on the review, NSF began terminating awards beginning April 18<sup>th</sup> and conducted several rounds of terminations on a rolling basis. Awards were identified through keyword searches and analytics and were terminated, generally on Fridays for approximately four weeks. Some awards were identified by NSF employees; some awards were identified by employees of the United States DOGE Service (“USDS”) who were detailed to NSF; and some awards were identified by USDS employees who were not detailed to NSF.

20. As of May 28, 2025, NSF terminated 1665 grants. Each termination letter explained why the grant was terminated. In particular, the termination letters explained that after reviewing the awards “carefully and individually,” NSF “determined that termination of certain awards is necessary because they are not in alignment with current NSF priorities.” *See, e.g.*, Dkt. 7-23. The phrase “current NSF priorities” contained a hyperlink to NSF’s April 18, 2025, Statement of Priorities. *Id.* The termination letters further explained that NSF was “issuing this termination to protect the interests of the government pursuant to NSF Grant General Conditions (GC-1) term and condition entitled ‘Termination and Enforcement,’ on the basis that they no longer effectuate the program goals or agency priorities. This is the final agency decision and not subject to

appeal.”

21. Consistent with the NSF Act of 1950, NSF continues to support increased participation in science and technology by U.S. populations, including women and minorities. NSF is continuing grants that broadly encourage increased participation in science and technology, which necessarily have the effect of supporting participation of particular groups, including women and minorities.

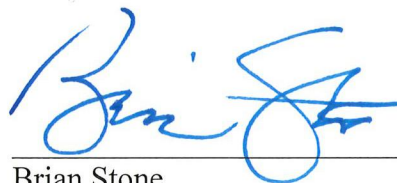
#### **May 2, 2025, Policy Notice**

22. On May 2, 2025, NSF issued NSF Policy Notice 25-034, *Implementation of Standard 15% Indirect Cost Rate*, with a May 5, 2025, effective date.

23. As the name suggests, the Policy Notice states that “NSF will apply a standard indirect cost rate not to exceed 15% to all grants and cooperative agreements awarded to IHEs for which indirect costs are allowable.” The Policy Notice further states that “NSF funding opportunities issued after May 5, 2025, will include notice of this indirect cost rate policy to ensure public awareness.” This maximum rate “applies only to new awards made to IHEs on or after May 5, 2025.” The Policy Notice also clarifies that it does not apply to existing grants, or to continuing grant increments.

24. As part of promulgating the Policy Notice, NSF updated its public website to notify all NSF stakeholders of the new policy. It also sent a mass distribution email announcing the 15% IDC rate limit for IHEs and implementation of NSF 25-034 to the NSF external community, including: 1) all organizations with pending proposals received to date; 2) official email addresses of all organizations with an active award; 3) all organizations that submitted a proposal to the NSF within the past seven (7) years; 4) all Principal Investigators and co-Principal Investigators on active awards; and 5) all users with financial certifier permissions activated.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 16<sup>th</sup>  
day of June, 2025.

A handwritten signature in blue ink, appearing to read "Brian Stone", is written over a horizontal line.

Brian Stone  
Senior Official Performing the Duties of the  
NSF Director  
National Science Foundation